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7 UNITED STATES DISTRICT COURT

8 DISTRICT OF NEVADA

9
10 JEFFREY A. COGAN, an individual; and
11 JEFFREY A. COGAN, ESQ., LTD., a
revoked Nevada corporation;

Case No.: 21-cv-2087

12 Plaintiffs,

13 v.

14 ARNALDO TRABUCCO, M.D., an
15 individual,

16 Defendant.

17 COMES NOW Plaintiffs, Jeffrey A. Cogan, *in proper person*, and Jeffrey A.
18 Cogan, Esq., Ltd., by and through their Jeffrey A. Cogan, Esq., and file this
19 Complaint for Declaratory Relief against Defendant Arnaldo Trabucco, M.D. and
20 hereby complain and allege as follows:

21 I. Nature of the Action

22 1. This is a Complaint for Declaratory Relief seeking a determination
23 whether the Superior Court of Mohave County, State of Arizona, has subject matter
24 jurisdiction to enter a Judgment against Jeffrey A. Cogan and Jeffrey A. Cogan,
25 Esq., Ltd. for their acts in the bankruptcy case of *In re: Arnaldo Trabucco* filed in
26 the United States Bankruptcy Court for the District of Nevada in 2013.

II. The Parties

2. Jeffrey A. Cogan is an individual residing in Clark County, State of Nevada.

3. Jeffrey A. Cogan, Esq., Ltd. was a Nevada corporation and was used by Jeffrey A. Cogan to practice law. Jeffrey A. Cogan, Esq., Ltd. charter was revoked on June 30, 2018.

4. Arnaldo Trabucco, based upon information and belief, is a resident of the State of Florida.

III. Jurisdiction and Venue

5. This Court has subject matter jurisdiction over this action for declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202 and Rule 57 of the Federal Rules of Civil Procedure.

6. An actual controversy exists between the Parties within the meaning of 28 U.S.C. § 2202, which is of sufficient immediacy and reality to warrant declaratory relief.

7. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332(a)(2) (diversity) because it is a dispute between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

8. This Court also has subject matter jurisdiction over this action per 28 U.S.C. § 1331 (federal question) as the matter involves the interpretation of Title 11 of the United States Code also known as the Bankruptcy Code and 28 U.S.C. § 2201.

9. If this Court finds that subject matter jurisdiction lies with the bankruptcy court, Plaintiff will seek an order referring the matter to the United States Bankruptcy Court for the District of Nevada pursuant to 28 U.S.C. § 157(a).

10. This Court has personal jurisdiction over Defendant Arnaldo Trabucco

1 because on November 6, 2012, filed a Chapter 7 Bankruptcy Petition in the District
2 of Nevada, Case No. BK-S-12-22475-MKN.

3 11. Venue is appropriate because the acts occurred in the case captioned
4 *Helen Scharf, and Karen Bright, and Randall Scharf v. Arnaldo Trabucco, M.D.*,
5 Case No. 13-01085-MKN, filed in the United States Bankruptcy Court for the
6 District of Nevada.

7 12. An actual case or controversy has arisen between the parties as
8 Defendant Arnaldo
9 Trabucco, M.D. seeks a judgment against Plaintiffs Jeffrey A. Cogan and Jeffrey A.
10 Cogan, Esq., Ltd. in the Superior Court for Mohave County, State of Arizona in a
11 trial set for December 15, 2021.

12 IV. The Underlying Action

13 13. On November 6, 2012, Defendant Arnaldo Trabucco, M.D. (hereinafter
14 “Dr. Trabucco”) filed a Chapter 7 Bankruptcy Petition in the United States
15 Bankruptcy Court for the District of Nevada, Case No. BK-S-12-22475-MKN.

16 14. On May 5, 2013, Jeffrey A. Cogan and Jeffrey A. Cogan, Esq., Ltd.
17 (hereinafter collectively as “Cogan”) on behalf of their clients Helen Scharf, Karen
18 Bright, and Randall Scharf filed in Dr. Trabucco’s bankruptcy case an Adversary
19 Complaint Determine to Nondischargeability of Debts (11 U.S.C. § 523(a)(6) and for
20 Common Law Negligence, alleging willful and malicious injury, and was assigned
21 Case No. 13-01085-MKN (ECF No. 1).

22 15. On July 16, 2013, Cogan filed a First Amended Complaint to Determine
23 Dischargeability of Debts (11 U.S.C. § 523(a)(6) removing the common law
24 negligence claim.

25 16. On February 11, 2014, a “Stipulation for Dismissal of Adversary
26 Action” was filed in Case No. 13-01085-MKN dismissing Scharf’s case against Dr.
27 Trabucco.

28 17. Dr. Trabucco did not seek sanctions in the adversary proceeding under

1 Federal Rule of Bankruptcy Procedure 9011¹ or under 11 U.S.C. § 105.

2 18. On February 28, 2014, Dr. Trabucco filed a Complaint alleging abuse
3 of process and malicious prosecution against Cogan and the Scharfs in the Superior
4 Court for the State of Arizona in and for the County of Mohave. The case was
5 assigned Case No. CV-2014-04030.

6 19. On January 6, 2016, Dr. Trabucco filed a motion for partial summary
7 judgment as to liability, and subsequently Cogan filed a motion for summary
8 judgment seeking a dismissal. The superior court took the motions under
9 submission and waited two (2) years to enter its decision.

10 20. On January 16, 2018, the Mohave County Superior Court granted Dr.
11 Trabucco's motion for summary judgment and denied Cogan's and Scharf's motion.

12 21. After a three (3) day trial, on August 24, 2018, the jury entered a
13 verdict in favor of Dr. Trabucco and against Jeffrey A. Cogan and Jeffrey A. Cogan,
14 Esq., Ltd. for general damages of \$6,232,000 and punitive damages of \$1,768,000,
15 of costs of \$3,529.76 and jury costs of \$3,694.28 on the claims of malicious
16 prosecution and abuse of process.

17 22. The jury found for Defendants Helen Scharf, Karen Bright, and
18 Randall Scharf and awarded Dr. Trabucco no damages as to them.

19 23. Cogan filed a timely appeal.

20 24. On April 7, 2020, the Arizona Court of Appeals, Division One, entered
21 its Memorandum Decision, affirming the superior court in part, reversing the court
22 in part, vacated in part, and remanded with directions.

23 25. On June 5, 2020, Dr. Trabucco filed a Petition for Review to the Arizona
24 Supreme Court.

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26
27 ¹ Federal Rule of Bankruptcy Procedure is the bankruptcy equivalent of
28 Federal Rule of Civil Procedure 11. 11 U.S.C. § 105 is the most common means for
a bankruptcy court to sanction an attorney. *See Law v. Siegel*, 134 S. Ct. 1188,
1198, 571 U.S. 415, 428, 188 L.Ed.2d 146, (2014).

1 *Jeffrey Cogan and Jeffrey A. Cogan, Esq., Ltd.*,² Superior Court of the State of
2 Arizona in and for the County of Mohave Case No. CV-2014-04030.

3 34. Cogan desires a judicial determination of the rights and duties and a
4 declaration as to any judgment obtained by Dr. Trabucco against Cogan under 28
5 U.S.C. § 2201.

6 WHEREFORE, Plaintiffs Jeffrey A. Cogan and Jeffrey A. Cogan, Esq., Ltd.
7 pray for judgment as follows:

8 1. A declaration that any judgment or order relating to *Arnaldo Trabucco*
9 *v. Jeffrey Cogan and Jane Doe Cogan, Helen Scharf, Karen Bright, and Randall*
10 *Scharf*, Superior Court of the State of Arizona in and for the County of Mohave
11 Case No. CV-2014-04030 is not valid and not enforceable against Cogan as being
12 *void ab initio* as being lacking subject matter jurisdiction;

13 2. For such further and additional relief as the Court may deem just and
14 Proper.

15 3. For such further and additional relief as the Court deems just and
16 proper.

17 Dated this 20th day of November, 2021

18 JEFFREY A. COGAN CHARTERED,
19 a Professional Limited Liability Company

20 By /s/ Jeffrey A. Cogan
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27 Attorney for Plaintiffs Jeffrey A. Cogan
28 and Jeffrey A. Cogan, Esq., Ltd.

28 ² The Court amended the caption on remand to remove the dismissed Scharf
defendants.